

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:13CR185
	§	
ZACHARY HOPKINS	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on August 21, 2013 to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Andy Williams.

On July 10, 2012, Defendant was sentenced by the Honorable Walter Herbert Rice, United States District Judge, to a sentence of 24 months imprisonment followed by a five-year term of supervised release for the offense of Conspiracy to Distribute and Possess With Intent to Distribute One Kilogram or More of Heroin. Defendant began his term of supervision on January 18, 2013. On July 15, 2013, the case was transferred to the Honorable Marcia A. Crone, United States District Judge.

On July 24, 2013, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (the "Petition") (Dkt. 3). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a

controlled substance. Defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (3) Defendant shall participate in substance abuse treatment, either inpatient or outpatient, to include testing, at the direction of the probation office (4) Defendant shall participate in an educational program in an effort to obtain a General Equivalency Diploma, if same has not been achieved while incarcerated; (5) Defendant shall serve a period of 100 hours of community service with any agency and on a schedule agreed upon by the defendant and the probation officer over the first two years of supervision; (6) Defendant shall pay a \$100 special assessment due immediately.

The Petition alleges that Defendant committed the following violations: (1) Defendant submitted a urine specimen that tested positive for marijuana on February 25, 2013, April 9, 2013, and May 6, 2013. Defendant denied drug use, and attributed the first positive specimen to being in the presence of others smoking marijuana at a nightclub. As to the second positive specimen, Defendant advised he ate a brownie that may have contained marijuana; (2) All urine specimens forwarded to Alere Toxicology Services were confirmed positive for marijuana. Additionally, an interpretation report provided by Alere Toxicology Services confirmed Defendant refused marijuana prior to the specimen collected on May 16, 2013; (3) Defendant failed to report for drug testing at McCary Counseling Services, Denton, Texas, as directed on March 27, 2013, April 10, 15 and 26, 2013, and June 28, 2013; (4) Defendant was instructed during an office visit on January 22, 2013, to begin GED classes immediately. He has failed to attend classes as instructed; (5) Defendant shall

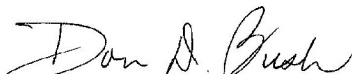
serve a period of 100 hours of community service with an agency and on a scheduled agreed upon by Defendant and the probation officer over the first two years of supervision; and (6) Defendant shall pay a \$100 special assessment due immediately.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the August 21, 2013 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of seven (7) months, with fifty-one (51) months supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in the Bureau of Prisons facilities located in Seagoville, Texas, if appropriate.

SIGNED this 26th day of August, 2013.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE